International Centre for Transitional Justice

Evaluation of ICTJ Kenya Program 2012 -2014

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Developed by Mikewa Ogada (mogada@adiliconsult.com)

CONTENTS

ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CIC	Constitution Implementation Commission
CIPEV	Commission of Inquiry into the Post-Election Violence
CSO	Civil Society Organization
CUCs	Court Users Committees
DME	Design, Monitoring and Evaluation
DOJ	Department of Justice
FGD	Focus Group Discussion
GBV	Gender Based Violence
GOK	Government of Kenya
ICC	International Criminal Court
ICD	International Crimes Division (Kenya)
ICJ	International Commission of Jurists-Kenya
ICTJ	International Centre for Transitional Justice
IDP	Internally Displaced Persons
IDPAK	Internally Displaced Persons Association-Kenya
IPOA	Independent Policing Oversight Authority
KHRC	Kenya Human Rights Commission
KLRC	Kenya Law Reform Commission
KNCHR	Kenya National Commission on Human Rights
KPTJ	Kenya for Peace Truth and Justice
KTJN	Kenya Transitional Justice Network
M&E	Monitoring and Evaluation
NCHRD	National Council on Human Rights Defenders
NCAJ	National Council on Administration of Justice
NGEC	National Gender and Equality Commission
NGO	Non-Governmental Organization
NPS	National Police Service
NPSC	National Police Service Commission
NVSN	National Victims and Survivors Network
PRWG	Police Reforms Working Group
RNE	Royal Netherlands Embassy
TJRC	Truth Justice and Reconciliation Commission
TOR	Terms of Reference
USD	United States Dollars

ACKNOWLEDGEMENTS

EXECUTIVE SUMMARY

The evaluation of the ICTJ Kenya Program 2012-2014 was undertaken by an independent consultant during the period February to May 2015. ICTJ received a grant of approximately USD 2,000,000 from the Royal Netherlands Embassy (RNE) for the Program. The Program's objectives were to (i) Provide support for key stakeholders to participate in accountability, justice and reform processes; (ii) Support victim-centered truth-seeking processes; (iii) Supporting credible and effective domestic measures to pursue criminal accountability and justice for the Kenya 2007-2008 post-election violence; and (iv) Foster the adoption of measures towards realization of victims' right to reparations. Its principles program approaches were technical assistance; research; advocacy and; partnerships and networking.

Upon the closing of the grant, ICTJ commissioned this evaluation to: (i) assess the performance of the Program, including its relevance, effectiveness, efficiency, coordination and coherence and impact; (ii) provide recommendations for future programming; and (iii) to collect information on specific needs of transitional justice actors and the transitional justice context in Kenya. The evaluation was undertaken during the period February-May 2015, and adopted the methodologies of documents review, key informant interviews and focus group discussions (FGDs) with victim intermediary groups.

Relevance: This rationale and strategic choices for the ICTJ Kenya Program 2012-2014 were partly developed on the basis of findings and recommendations from the previous evaluation of the Kenya Program 2009-2011. Program objectives were well-articulated and linked to the key transitional justice concerns in the country, and the strategies and interventions of civil society organizations and key government institutions. The Program's focus areas of support to the implementation of the TJRC's report's provisions on reparative justice, and to the implementation of the police vetting process, were key priorities of civil society, development partners and the Government of Kenya (GoK). Overall, this evaluation found that the Program has not been flexible enough to adjust to new challenges, such as those posed by insecurity and terrorism. This has led to the questioning of ICTJ's relevance in relation to contemporary human rights and governance concerns.

Effectiveness: The Program did not have a results framework that could be the basis for assessing the extent to which interventions contributed to the realization of its objectives. Even so, the Program had important effects: ICTJ deepened its work around the TJRC by undertaking a lessons learned study on the commission; empowering victims and victims' intermediary groups; and providing critical technical inputs to the ongoing the police vetting process. ICTJ succeeded in facilitating networking and learning among the different diverse groups of key transitional justice issues, particularly reparations. ICTJ also supported several groups' sustainability by assisting them to develop funding proposals.

On police reforms, ICTJ provided critical leadership to members of the civil society Police Reforms Working Group (PRWG). It provided critical technical inputs in the design of the police vetting guidelines, tools, legislative drafting support and communications advice to the National Police Service Commission's (NPSC) ongoing police vetting process. Thus far however, the police vetting process has failed to inspire public confidence because there has been no systematic assessment of officers' human rights compliance records. The failure of

PRWG to bring to the human rights dimensions of policing practices more robustly into the vetting process has greatly undermined the potential for far-reaching human rights reforms to be undertaken within the NPS. Even so, ICTJ has commendably identified the capacity gaps in the documentation of human rights violations within the PRWG as an area requiring technical assistance support.

ICTJ's partners were aware about the publications it developed, and spoke highly of their quality and usefulness. Besides, ICTJ's training for journalists served to broaden their knowledge and capacity to promote public understanding on the issues of truth-telling, reconciliation and reparations. However, ICTJ did not adequately profiled itself and its work in Kenya.

During the Kenya Program 2012-2014, ICTJ placed less emphasis on criminal accountability than on the other objectives. This decision arose from well-researched ICTJ assessments that demonstrated that pursuing criminal accountability would not yield positive results. On the basis of this background, ICTJ concluded that it would be more pragmatic to focus on reparative justice, which was also supported by GoK. For the time being therefore, this seems to be the best approach for achieving results in reparative justice and criminal justice.

Efficiency: The Kenya Program 2012-2014 had a comprehensive and holistic program design that included technical assistance, training, research, advocacy and community outreach. This combination of approaches is highly appropriate for addressing the complex transitional justice context in Kenya. ICTJ reviewed changes in the political and policy environment relating to transitional justice every six months, documented emerging issues, and adapted Program strategies and activities accordingly in its half-year plans. However, the Program Document did not identify the assumptions on which program delivery strategies rested, and how they weighed against identified risks.

The success of the ICTJ Kenya Program 2012-2014 partly rests on the Program's well-trained and committed staff. The Program also succeeded because of the effective management, coordination and oversight. However, given the broad scope of the Program there was a limited number of staff, resulting in strained capacity to provide all the required technical and management direction and support. While training on Design, Monitoring and Evaluation (DME) was provided, follow up was lacking e.g. no proper M&E plan was developed.

Coordination and Coherence: Efforts by ICTJ to improve coordination of actors working on transitional justice resulted in more coherent work in the field. Partnerships enabled ICTJ to broaden its grassroots presence and credibility as well as its outreach activities. Effective coordination was achieved among civil society advocating for the implementation of the TJRC's recommendations. In spite of this good coordination, the focus on governance by donors is increasingly narrowing down to support to the implementation of devolved governance, counter-terrorism and business and trade. Funding partners in Kenya are less inclined to fund governance programs focusing on transitional justice.

Impact: The Program has made lasting contributions in terms of its overall goal of "promoting the realization of truth, justice, reforms and reparations in Kenya". ICTJ provided critical technical inputs to policy processes related to transitional justice, and effectively deployed its

convening power to bring transitional justice actors together. The Program has contributed to enriching the policy debates on the options for Kenya's own International Crimes Division (ICD) court, and contributed directly to the development of the legal framework for management reforms in the National Police Service (NPS). However, ICTJ has not sufficiently focused on alternative mechanisms, such as District Peace Committees, which can provide justice to victims and promote reconciliation.

Some Key Lessons Learned

1. Being persistent, and having long-term objectives are good guarantees for success when working on transitional justice issues.
2. A good program design must have a clearly articulated results framework.
3. A non-confrontational approach to human rights work gains one allies where they might not expect to have them.
4. The value of working with and through partners and networks, and to listening to these partners, cannot be overstated.
5. Civil society groups should not just offer criticism but should also be solutions-oriented. Striking the right balance is difficult to achieve.
6. Civil society groups need to continually adapt normative models to their own unique contexts in order to maximize their relevance.
7. Kenyan human rights organizations need to invest more in capacity building on the documentation of human rights violations and the security of human rights defenders.
8. There is room for civil society groups to bring their expertise and experience to influence county governments in cosmopolitan counties in Kenya to address issues of land rights and resource-sharing in ways that can promote reconciliation, healing and cohesion.
9. Civil society groups in Kenya are not self-driven in insuring their financial sustainability.

Some Key Recommendations

1. ICTJ should consider developing a clear results framework for future programs.
2. ICTJ's future program proposals should feature a clear risk management plan, with risk mitigation responses.
3. ICTJ needs to address the responsiveness and the level of autonomy of the Kenya Program, particularly in terms of the space it has to engage the media.
4. ICTJ should consider developing a Kenyan-specific media strategy to strengthen its awareness initiatives, and to increase demand-side support for its policy advocacy.
5. Groups like ICTJ need to position themselves to play a role in influencing decision-making in the Kenya DGDG, which has shown a willingness to be convened by civil society actors.
6. ICTJ needs to urgently convene civil society actors to begin to reflect on the implementation of the President's April 2015 speech on reparations.
7. Civil law action for human rights atrocities is an approach ICTJ has not previously focused on. It should be explored as it is less threatening than criminal law action.
8. ICTJ's publications were highly beneficial. They should be simplified to be less technically-oriented so they can reach a broader audience.
9. ICTJ requires a resource mobilization/fundraising strategy targeting bilateral and multilateral donors, foundations and the private sector.

1. INTRODUCTION

This report contains the findings of the International Center for Transition Justice's (ICTJ) final evaluation of its Program: *Promoting the Realization of Truth, Justice, Reforms and Reparations in Kenya* (hereinafter-Kenya Program 2012-2014). The evaluation was undertaken by an external, independent consultant from February to May 2015. The Kenya Program 2012-2014 had a budget of approximately USD 2,000,000, and was funded by the Royal Netherlands Embassy (RNE). This grant was a continuation of a previous three-year (2009-2011) RNE grant.

The overall aim of the ICTJ Kenya Program 2012-2014 was to contribute to making Kenya a more just, democratic, and inclusive society. Towards that end, this second three-year Program built upon past achievements and lessons learned to pursue the following specific objectives:
- Provide support for key stakeholders to participate in accountability, justice and reform processes;
- Support victim-centered truth-seeking processes;
- Support credible and effective domestic measures to pursue criminal accountability and justice for the Kenya 2007-2008 post-election violence; and
- Foster the adoption of measures towards realization of victims' right to reparations.

The Program promoted reforms to guarantee non-recurrence of similar abuses using various approaches, including:
- Technical assistance;
- Research and analysis;
- National, regional and international advocacy;
- Building capacity of civil society organizations; and
- Developing and supporting transitional justice networks.

Evaluation Objectives

With the closing of the grant for the Program, ICTJ commissioned a final program evaluation whose broad objectives were:
1. To evaluate the performance of the Program, including its relevance, effectiveness, efficiency, coordination and coherence, and impact, with a strong focus on assessing the results at the outcome level;
2. To provide recommendations to improve future planning, including advising on necessary adjustments to the programmatic agenda;
3. To collect additional information on specific needs of transitional justice actors and on the transitional justice context in Kenya; and
4. To provide recommendations to re-design / adjust the current Program.

2. EVALUATION METHODOLOGY

The evaluation of the ICTJ Kenya Program 2012-2014 was a qualitative study that used semi-structured interviews with key informants, beneficiaries, selected stakeholders, program implementing staff and on the analysis of reports and data available. This choice was seen as the most appropriate for extracting relevant insights that would allow the evaluation to make an authoritative assessment of the contribution of the Kenya Program 2012-2014.

The evaluation commenced immediately after the approval of an Inception Report on April 1 2015. Prior to this date, several planning and coordination teleconferences were conducted, and prior to approval of the Inception Report, a coordination meeting was held with the staff ICTJ Kenya Program team and the Head of Design, Monitoring and Evaluation. An initial set of documents provided by ICTJ Kenya Program was reviewed in the process of developing the Inception Report. Program documentation reviewed included strategy documents, the RNE grant agreement and funding proposal, activity concept notes, activity reports, progress reports and publications, among others.

Key informant interviews were held with 18 individuals during the period April-May 2015. Interviews took place in Nairobi, and respondents included staff of the ICTJ Kenya and New York offices, representatives of victim intermediary groups, ICTJ stakeholders and partners, and government officials. Two focus group discussions (FGDs) were held with male and female representatives of victim intermediary groups. Key informants were chosen on the basis of their participation / interaction with the Program. Additional key informants were sampled on the basis of gaps in information arising from the review of documentation as well as on the recommendation of other key informants. Semi-structured questionnaires were used to conduct the interviews (see Annex 2), and questions addressed the evaluation criteria of relevance; effectiveness, efficiency, coordination and coherence, and impact.

The initial findings of this evaluation were validated through written comments provided by ICTJ's staff in Kenya and New York. The feedback provide has been incorporated into this version of the evaluation report.

Limitations of the evaluation: The evaluation was not able to consult some of the proposed key informants as they proved to be unresponsive. The evaluation was also not able to go to the ground in parts of Nairobi or the Rift Valley to meet beneficiaries of the work that ICTJ carried out in partnership with victim groups. However, in order to address these limitations, the evaluation used multiple data collection methods, including documents review, key informant interviews and FGDs, to increase the odds of getting accurate information.

3. EVALUATION FINDINGS AND ANALYSIS

3.1 RELEVANCE

Relevance is measuring the extent to which the objectives of the Kenya Program 2012-2014 were consistent/aligned with beneficiaries' requirements and country needs and context.

Summary of Key Findings
- *Rationale, strategic choices for the Program developed on the basis of findings and recommendations from evaluation of the previous Program- 2009-2011;*
- *Program objectives well-articulated, linked to key transitional justice issues in Kenya e.g. TJRC's framework on reparations, police vetting process;*
- *Program not flexible in terms of adjusting to new challenges;*

This evaluation finds that the rationale and strategic choices for the ICTJ Kenya Program 2012-2014 were partly developed on the basis of findings and recommendations from the previous evaluation of the Kenya Program 2009-2011, and the data, research findings, analysis and lessons that emerged from the different activities that were implemented under that Program. The design of the Kenya Program 2012-2014 also drew from internal consultations within the organization between Kenyan-based staff and the broad network of ICTJ experts, particularly those based at the New York headquarters.

Nonetheless, this evaluation finds that the ICTJ Kenya Program did not formally consult Program stakeholders during the design of the Kenya Program 2012-2014. Key informants interviewed for this evaluation also reported that they were seldom consulted on the conceptualization of Program activities. Some of those interviewed for this evaluation suggested that this is a top-down approach that is to be expected from a global organization. It is however this evaluation's finding that the lack of formal consultations on program design did not adversely affect the sense of ownership of the Program, and participation in activities by program stakeholders. Program stakeholders, particularly the NPSC and the partner victim intermediary organizations- National Victims and Survivors Network (NVSN) and Grace Foundation- expressed a willingness to sustain the activities initiated in partnership with ICTJ. However, they expressed doubt about their capacity- technically and resource-wise- to do so on their own.

The ICTJ Kenya Program 2012- 2014 was directed to four key objectives, which are aligned to the ICTJ Strategic Plan 2012-2014:
1. Provide support for key stakeholders to participate in accountability, justice and reform processes;
2. Support victim-centered truth-seeking processes;
3. Support credible and effective domestic measures to pursue criminal accountability and justice for the post-election violence; and
4. Foster the adoption of measures towards realization of victims' right to reparations.

This evaluation finds that the Program's objectives were well-articulated and linked to the key transitional justice concerns in the country, as well as the strategies and interventions of civil society organizations and key government institutions, such as the TJRC, the Directorate for

National Cohesion in The Presidency and the National Police Service Commission (NPSC). It is evident, from the interviews, the FGDs and analysis of program documentation that the Program identified opportunities to establish linkages with Agenda 4 of the National Accord and Reconciliation Act (2008), which provided the broad framework for transitional justice following the 2007-2008 post-election violence. Agenda 4 provided for processes for national reconciliation and healing, truth-telling, criminal accountability for atrocities, and the reform of key governance institutions through comprehensive constitutional and legal changes. Moreover, civil society engagement and involvement in the implementation of Agenda 4 was deemed by GoK and Kenya's development partners to be key to the success of these processes.

Key 'accountability, justice and reform processes' have been underway in the country since the 2007-2008 post-election violence, and these processes have required constant technical inputs from civil society organizations as well as public participation, thereby making Objective 1 highly relevant and necessary. Some of Kenya's ongoing public discourses and debates on justice for atrocities continue to emphasize the rights and status of suspected perpetrators to the detriment of victims, making Objective 2 on 'support to victim-centered truth-seeking processes' highly relevant for true healing and reconciliation. The 'pursuit of criminal accountability' for these atrocities- Objective 3- is also highly relevant in Kenya as the trend is that there has been no criminal accountability for atrocities committed in the country since independence. Objective 4 on 'support measures for reparative justice for victims' is also highly relevant in the Kenyan context where there are hardly any documented cases of the restoration of dignity, rights, livelihoods and property of victims in the aftermath of atrocities.

The Program's focus areas of support to the implementation of the TJRC's report's provisions on reparative justice, and the implementation of the police vetting process, were key priorities of civil society, development partners and GoK. Given the enormity of the challenge of implementing Agenda 4, in particular, the recommendations of the TJRC and police reforms, the evaluation established that the technical support provided by ICTJ to the Directorate for National Cohesion in The Presidency and the NPSC, have been well-received. There is also considerable commitment within GoK for reparative justice.

Overall, this evaluation found that the Program has not been flexible enough to adjust to new challenges, such as those posed by insecurity and terrorism, and their relationship to the broader transitional justice agenda. This has led to the questioning of ICTJ's relevance in relation to contemporary governance concerns, an issue that arose in the previous evaluation. It is the view of this evaluation that the problem of insecurity in Kenya is partly the result of ineffective policing approaches that stem from the police's historical repression of citizens. Police brutality has spawned suspicion and mistrust of the police hindering strong police-citizen cooperation that is required to effectively address insecurity. Moreover, radicalization of young people in Kenya, and their recruitment into terrorism, are largely the result of historical grievances of people in the coastal and northern regions of the country over long-standing state brutality and state neglect.

It is clear therefore that these contemporary human rights concerns are related to the country's transitional justice agenda. By actively linking these contemporary concerns to

transitional justice- pursuing criminal accountability and institutional reforms to address impunity as well as addressing victims' grievances- ICTJ stands to enhance public understanding and interest on the contemporary relevance of its transitional justice work. This approach would help to draw stronger attention from policymakers as transitional justice would be seen to be an approach that is relevant to contemporary governance challenges, which tend to be of greater priority to policymakers in any context.

3.2 EFFECTIVENESS

Effectiveness measures the extent to which the interventions implemented under the Kenya Program 2012-2014 attained the Program's stated objectives. Effectiveness therefore measures the extent to which outputs delivered under the Program actually contributed to the realization of stated objectives.

Summary of Key Findings
– *Program had no results framework, but had important, measurable effects;*
– *Succeeded in facilitating networking and learning on key transitional justice issues, particularly reparations;*
– *Supported several groups' sustainability by assisting with proposal writing;*
– *Provided critical technical inputs in design of police vetting guidelines, frameworks for NPSC;*
– *Broadened journalists' knowledge, capacity to promote public understanding on transitional justice issues;*
– *Program placed less emphasis on criminal accountability based on well-researched but negative assessments;*
– *Delinking reparations and criminal accountability best approach for achieving reparative justice and criminal justice;*
– *Program plans to provide timely capacity strengthening to human rights organizations on human rights information and documentation systems;*
– *Profiling of program's interventions was weak;*

From the design stage, the ICTJ Kenya Program 2012-2014 did not have a results framework that could be the basis for assessing the extent to which interventions contributed to the realization of Program objectives. The results framework would have provided the expected logical connection between the Program objectives / outcomes as well as outputs of activities, in addition to setting out indicators of progress, baseline values and targets, which would have helped the evaluation to assess whether the outputs of activities contributed to the realization of the Program objectives as expected. Such a comprehensive results framework would have provided the Program with the tools for monitoring progress and allowed for correction or adjustment in the program path as necessary.

All the same, this evaluation was able to gathered sufficient data to provide a good assessment of the extent to which the Program realized its stated objectives or outcomes. As indicated earlier, the ICTJ Kenya Program 2012- 2014 was directed to four key objectives:

1. Provide support for key stakeholders to participate in accountability, justice and reform processes;

2. Support victim-centered truth-seeking processes;
3. Support credible and effective domestic measures to pursue criminal accountability and justice for the post-election violence; and
4. Foster the adoption of measures towards realization of victims' right to reparations.

This evaluation finds that these objectives or expected outcomes were closely linked to those of the Kenya Program 2009-2011[1], and broadly addressed the same issues of truth-telling, reparations, and security sector reforms. Focusing broadly on the same objectives allowed for continuity between the two program cycles, and expanded the space for deepening the penetration of interventions in these thematic areas.

Outcome 1: Provide support for key stakeholders to participate in accountability, justice and reform processes

The evaluation of the previous ICTJ Kenya Program 2009-2011 found that ICTJ provided beneficial technical support to Kenyan civil society organizations and media institutions in their work to support and advance various aspects of Agenda 4 of National Accord, particularly the ICC cases and the work of the TJRC. In the subsequent Program, ICTJ deepened its work around the TJRC by undertaking a lessons learned study on the truth commission; empowering victims and victims' intermediary groups; and providing technical inputs to the ongoing the police vetting process, which was in the design stage at the end of the 2011 Program.

The Kenya Program 2012-2014, ICTJ sought to improve stakeholder participation in 'accountability, justice and reform processes' through a combination of activities and interventions, including: consultative and technical meetings with victims and victims' intermediary groups; key criminal justice stakeholders; parliamentarians and civil society; the publication of policy advisories; monitoring of policy processes; developing research reports and training media practitioners.

Various representatives of victims' intermediary groups consulted through key informant interviews and FGDs reported to this evaluation that, by regularly convening forums that bring victims together, ICTJ succeeded in facilitating networking and learning on key transitional justice issues, such as reparations. In the opinion of one victim intermediary group leader:

> *"[ICTJ] have done important work of bringing victim groups together…They have created awareness that victims of human rights violations can be compensated*

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[1] The objectives of the Kenya Program 2009-2011 were: (a) Engage civil society in activities to help ensure that reparations are one outcome of transitional justice efforts, especially for the most marginalized groups in Kenyan society; (b) Support civil society and the media on strategically advancing the Commission of Inquiry into the Post-Election Violence (CIPEV) recommendations and engaging with the TJRC; (d) Provide technical assistance to civil society, media, parliamentarians and policy makers to support effective institutional reforms as envisaged under the constitutional reforms process, with a focus on security sector reforms and vetting of public officials; and (e) Provide technical assistance to the Truth Justice and Reconciliation Commission (TJRC) to ensure that it treats victims in a fair and sensitive manner, and gives priority to their input and their needs.

through psychosocial support and monetary compensation, and so on. Generally, they have given hope to people and victims on the ground that there can be redress; and that their suffering was not in vain..." **Official of victims' intermediary group.**

However, some individuals representing victims who were consulted for this study felt that ICTJ's support to victims and victim groups could be less conceptual/abstract and more practical. They expressed concern that ICTJ does not support practical measures for justice such as providing organizational development support and supporting litigation actions on behalf of victims' intermediary groups, such as NVSN and Grace Foundation.

With respect to organizational development, this evaluation found that ICTJ has in fact supported several groups' sustainability by assisting them to develop funding proposals to funding partners, including United Nations Trust Fund to End Violence Against Women (UNTF). Such support has been provided to Civil Society Organizations (CSO)-Network, Grace Agenda, Internally Displaced Persons Association-Kenya (IDPAK), Rights Promotion and Protection (RPP) and the Coast Education Center. ICTJ's Kenya Program explained to this evaluation that it provided this kind of support because it realizes that stable partners are key for effectively pursuing a nation-wide transitional justice agenda. Where these partners are not strengthened, then the transitional justice agenda tends to be dominated by just a few of the larger, better funded organizations. Be that as it may, this evaluation does not endorse the idea that ICTJ should focus on organizational development work as it does not have comparative advantage in this field. Moreover, what the concerns of these actors demonstrates is that ICTJ needs to better explain its mission and approaches to partners to address such misconceptions and unrealistic expectations. Neither does this evaluation endorse the idea of ICTJ getting involved in litigation, as this is not its forte. There are key partners such as Kituo Cha Sheria, which, partly through technical support provided by ICTJ, are preparing litigation on sexual violence-related atrocities.[2]

This evaluation finds that in the course of implementing the Kenya Program 2012-2014, ICTJ played a key role in improving technical understanding among civil society stakeholders- both national level and grassroots based organizations- of the idea of reparations and the options for its practical implementation, and approaches to police vetting. Various key informants interviewed for this evaluation explained that ICTJ's capacity building activities are successful because they rely on experts of high repute with knowledge of comparative experiences, to shed light on these highly technical issues. (The experts drew on comparative experiences, particularly on work that has been carried out by ICTJ over the years in countries such as South Africa- support to truth-telling; and Bosnia- support to police vetting).

On police reforms, ICTJ is widely viewed by key informants interviewed for this evaluation as having provided critical leadership to members of the civil society Police Reforms Working Group (PRWG).[3] ICTJ is regarded as having provided critical technical input into the design of the vetting guidelines and tools, which are being used by the NPSC in the ongoing police vetting process. Both ICTJ and NPSC officials interviewed for this evaluation suggested that the vetting guidelines have contributed to ensuring the vetting process is fair, and adheres to

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[2]

[3] Established in 2012, the PWRG was the brainchild of ICTJ.

the principles of natural justice. In support of this stance, they cite the fact that the courts have generally not been critical of the police vetting process.

The NPSC confirmed to this evaluation that ICTJ has provided valuable technical support in terms of advising on the options for mainstreaming gender in the draft National Police Service (NPS) Standing Orders (SSOs), as well as the options for strengthening the Police Internal Affairs Unit. ICTJ also provided a highly competent legal draftsman to assist in the drafting of subsidiary legislation on recruitment, transfers and discipline in the NPS. From the perspective of the NPSC and some members of the PRWG, this support has been useful in providing a stronger framework for police recruitment processes, performance evaluations and decision-making in relation to transfers, promotions and discipline--It must be noted that the lack of a proper framework for human resource management decision-making is partly to blame for the recruitment and retention in the NPS of incompetent and unethical officers, who contribute to the persistence of sub-standard policing practices, including human rights abuses. The NPSC also reported to this evaluation that ICTJ provided valuable support in terms of assisting the Commission to development of a communications strategy, which included funding a documentary to create greater awareness on the police vetting process.

This evaluation established that ICTJ's effort to engage Parliament and its committees on accountability, justice and reform processes did not yield much fruit. A policy advisory document on transitional justice was developed for parliamentarians to consider, and contacts were made with critical actors in the Departmental Committee on the Administration of Justice and Legal Affairs and the human rights caucus. Nevertheless, the ICTJ Kenya team concedes that it has not had much of a bearing on parliamentarians' thinking and approaches towards issues of transitional justice and reforms broadly.

As pointed out in the previous evaluation, the ICTJ Kenya Program continued to produce high quality publications on issues of transitional justice, which were targeted at technical audiences. ICTJ disseminated its publications through its mailing list, website and at meetings with its partners and stakeholders. The publications reviewed during this evaluation, *Lessons to be learned: An analysis of the final report of the TJRC;* and *Accountability gap on sexual violence in Kenya: Reforms and initiatives since the post-election crisis,* are informative and of high quality. The evaluation found that some of ICTJ's partners were aware of these publications and spoke highly of their quality. Two respondents who write regularly on human rights issues in the Kenyan print press, pointed out that they have referred to ICTJ's publications in their articles. While ICTJ tries to get feedback on its publications from the readers, its feedback system is weak as readers have no incentive to provide the feedback.

Some respondents suggested that some of these publications have content that is useful for improving public understanding on transitional justice issues, but they ought to be simplified to be less technically-oriented so that they can reach a broader audience.

This evaluation established that ICTJ continued to invest in the partnership it had developed with media and media practitioners during the Kenya Program 2009-2011. Media practitioners interviewed for this evaluation reported that ICTJ hosted valuable call-in talk shows on community radio that improved public understanding on the options for justice for relating to the 2007-2008 post-election violence. The shows focused on the issues of domestic

prosecutions, reconciliation and reparations, and enjoyed wide coverage and acceptance because they were conducted on radio stations using local languages. They also drew public interest as they were led by transitional justice experts, including UN Special Rapporteur for Freedom of Assembly, Maina Kiai, ICTJ's own Howard Varney, an expert on truth-telling and vetting, and a former official of the Sierra Leonean truth commission, who has worked closely with ICTJ.

Media practitioners interviewed for this evaluation reported that ICTJ's training for journalists broadened their knowledge and capacity to promote public understanding on the issues of truth-telling, reconciliation and reparations. For some time, the ICC process had dominated public debates and discourses on transitional justice, and there was a gap in public awareness about other options for justice for the post-election violence, such as truth-telling and reparations.

The media practitioners nevertheless suggested that ICTJ has not adequately profiled itself and its work in the Kenya media. They suggested that ICTJ may have greater impact if it becomes more aggressive about seeking more media encounters to profile its mission and activities. For greater effect however, the media practitioners suggested that the training for media ought to be continuous and not "touch-and-go" as has been the case. Underscoring the need for an ICTJ Kenya Program media strategy / policy, a respondent to this evaluation explained that:

> *"[ICTJ] should have a very strong media policy that spells out the publicity approach… you can do policy advocacy in the boardrooms but you need the media to profile issues, and build public interest and support for these policies."* **Media practitioner.**

Outcome 2: Support victim-centered truth-seeking processes

During the period under review, ICTJ provided technical assistance to the NPSC, which is coordinating the police reforms process, in particularly the police vetting process. The police vetting process is open to the public, and is essentially a truth-telling mechanism for victims of police abuses. Consequently, ICTJ partnered with victims' intermediary groups, such as IDPAK, the Grace Agenda and Wangu Kanja Foundation, to assist them to mobilize and prepare victims of police abuses in the Nairobi and Rift Valley regions to participate in the police vetting process by submitting information on the experiences of their clients. The latter two organizations were a good choice because they work with people living in Nairobi's poorer, informal settlements, which are prone to police excesses.

The Case of Grace Agenda

The Grace Agenda partnered with ICTJ to sensitize communities on the importance of their participation in the police reforms process, particularly the police vetting process. The Grace Agenda carried out open community forums, and aired ICTJ's documentary on police vetting in the informal settlements of Nairobi, Mukuru Kwa Jenga, Mathare, Dandora, Kibera and Kawangware in Nairobi.

As a result of their sensitization activities, social workers in Mukuru Kwa Jenga started to document abuses committed by a particularly notorious police officer in the area, and plant forward a dossier on the officer to the police vetting panel. In Dandora, several people are working with The Grace Agenda to record incidences of police abuses, and to forward them to the vetting panel.

> *In order to assist the Mukuru and Dandora who have potential complainants against any specific police officer, The Grace Agenda officials first explain the objectives of the process, and then take potential complainants through a complaints' form that has been developed by the NPSC.*
>
> *Grace Agenda has also been working with people who suffered from sexual violence during the post-election crisis. They have had several sessions with people on the ground to sensitize them on the options for reparations for sexual violence that are available through the TJRC framework.*

This evaluation finds that the police vetting process has so far failed to inspire public confidence as it has tended to focus more on the how much wealth officers have acquired as opposed to systematically assessing their performance records, which includes the extent to which they have complied with human rights standards. Although there is not much evidence to suggest that the GoK has been interfering with the ongoing police vetting process, there is really no discernible commitment from the government to address the issues of police abuses, corruption and ineffectiveness, which persist, and have been at the heart of agitation for police reforms. The police vetting process has also been weakened by inefficiencies arising from the inadequate institutional framework that the NPSC is relying on to carry out the vetting. Moreover, notwithstanding years of experience documenting human rights abuses, both official and non-state human rights organizations have generally failed to gather and share reliable evidence on police abuses. This is because of the fear of reprisals as well as inadequate expertise in terms of properly documenting human rights violations. Underscoring this situation, an NPSC official informed this evaluation that members of the PRWG had generally failed to share evidence of police abuses, and where they did, the quality was wanting.

This evaluation notes that the failure of PRWG to bring to the human rights dimensions of policing practices more robustly into the police vetting process has greatly undermined the potential for far-reaching human rights reforms to be undertaken within the NPS. Even so, ICTJ has commendably identified the capacity gaps in the documentation of human rights violations within the PRWG as an area where it can intervene to improve. Consequently, with funding from the Government of Austria, ICTJ plans to provide technical assistance in human rights information and documentation systems for Human Rights Defenders (HRDs) in Kenya. This evaluation is of the view that this particular intervention will be an important and much-need contribution to improving the capacity of human rights actors to better document police abuses- a capacity which was relatively strong in the late 1990s and early 2000s, but has been in decline thereafter.

Outcome 3: Support credible and effective domestic measures to pursue criminal accountability and justice for the post-election violence

During the Kenya Program 2012-2014 cycle, ICTJ appeared to place greater emphasis on objectives 1, 2 and 4 in contrast to objective 3 which focused on criminal accountability. Consequently, several key informants interviewed for this evaluation perceived the lack of focus on criminal accountability as a weakness of the Program. Some went as far as to suggest that ICTJ was much too concerned about jeopardizing its connection to the government, particularly the Directorate of National Cohesion in the Ministry of Interior (The Presidency), which is a partner on the implementation of the TJRC's recommendations on reparative

justice. However, this evaluation finds that the decision to place less emphasis on criminal accountability arose from well-researched ICTJ assessments that demonstrated that pursuing criminal accountability would not yield positive results. Firstly, it had been clear for some time that the Kenyan State was generally unwilling to pursue any of the perpetrators of post-election violence. Secondly, civil society groups had disengaged from the discussions on the establishment of the International Crimes Division (ICD) of the High Court, which meant that had ICTJ sought to pursue the establishment of ICD, it would be doing so without the much-need partnership and support base of other key civil society actors. Thirdly, the approach of the ICC in relation to the Kenyan cases appeared to be driven more by political considerations and less by the available evidence, which in the view of the ICTJ does not augur well for genuine accountability and justice for the post-election crimes. Finally, the option of instituting public inquests in the national courts would have also likely yielded few if any positive results, given the State's general reluctance to support criminal accountability.

On the basis of this background, ICTJ reached the conclusion, which this evaluation endorses, that it would be more pragmatic to focus on reparative justice, which was also supported by the GoK. From ICTJ's perspective, victims have long-term needs, and it was therefore prudent to seize the important opportunities offered by the TJRC's framework on reparations, and the rare show of political will for reparations demonstrated by the Ministry of Interior. Moreover, it ought to be acknowledged that the pursuit of reparations for the post-election crimes can in fact lead to or support criminal prosecutions in the future. Reparations can lead to the acknowledgement of certain rights of victims that have been denied, for instance, violations of land rights and citizenship rights. Where the GoK acknowledges these kinds of rights through reparations, a stronger basis for pursuing their restoration through judicial means in future is laid. In addition, by pursuing reparations, the capacity of Kenyan civil society to pursue criminal accountability is strengthened as processes for reparative justice can lead to the identification of both victims and perpetrators of atrocities. Working with victim groups to pursue reparations, as ICTJ has been doing, also stands to contribute to building a stronger and broader constituency for future initiatives focusing on criminal accountability for atrocities in Kenya. For the time being therefore, this evaluation finds the decision to delink reparations from criminal accountability to be highly pragmatic and relevant in the prevailing context. It is perhaps the best approach, under the circumstances, for achieving results in reparative justice and criminal justice for the post-election crimes, as well as institutional reforms that can guarantee non-repetition of violations.

Although it may appear that ICTJ did not directly pursue criminal accountability, it must be noted that ICTJ Kenya Program published- *Accountability gap on sexual violence in Kenya: Reforms and initiatives since the post-election crisis,* which assessed the extent to which there had been criminal accountability for sexual violence committed during the post-election violence. This publication provided an important analytical framework for the judicial inquests initiated by Kituo Cha Sheria into sexual violence that occurred during the post-election violence. ICTJ has also been working with Katiba Institute on a case relating to extra judicial executions by the police, which took place in Kisumu County during the post-election violence.

It should also be noted that the previous evaluation of 2009-2011 had established the ICTJ offered strong leadership to Kenya human rights groups in the initial stages of the Kenya ICC

cases by creating awareness on the nature of the cases, victims' rights and reparations as well as providing technical advice on issues such as complementarity and witness protection. Notwithstanding the general disengagement of Kenyan civil society from the debate on the ICD, ICTJ, in partnership with other civil society organizations such as WAYAMO, continued to provide leadership in the thinking on the ICD. Commenting on this, a key informant explained that:

> *"On ICD, [ICTJ] offered great technical support and comparative knowledge in terms of the functioning of ICDs in other jurisdiction. They ensured that the [Kenya Transitional Justice Network] KTJN kept focused, and incorporated these experiences and technical inputs into the design of the proposed court. Regrettably, the only challenge with the ICD is the lack of political will to actually make it work…ICTJ gave good advice here; but the state is simply not serious about establishing this mechanism."* **Civil society practitioner.**

The foregoing quote appears to suggest that the re-ignition of the debate on the ICD by the GoK is a charade aimed at drawing attention away from the ICC cases. Some key informants interviewed for this evaluation cautioned that ICTJ should therefore be wary of being co-opted into lending respectability to this particularly agenda. In the opinion of one civil society actor:

> *"The Kenyan government are experts at fooling foreigners…ICTJ's leadership would be naïve to think that this government is open and ready to let them (and human rights groups) to influence policy. We need to be aware of our context…that this government's commitment to human rights change is a political game...when was the last time that you saw human rights organizations being shut down and their finances being audited as has happened to MUHURI [Muslims for Human Rights] and Haki Africa early this year? Things are not good for civil society in Kenya..."* **Civil society practitioner and consultant.**

While this is may be valid viewpoint, it is the opinion of this evaluation that ICTJ is on the right path in terms of supporting the establishment of the ICD. While it may appear that some of these institutions are created for political and instrumental reasons, it is nevertheless the view of this evaluation that multiple institutions of justice actually serve to expand the options available for redressing human rights violations. To be sure, similar arguments have been advanced against the ICC, and while they may be convincing, evidence shows that the ICC continues to be an important deterrent and a powerful force for justice.

Outcome 4: Foster the adoption of measures towards realization of victims' right to reparations

This evaluation established that ICTJ, perhaps more than any other organization, has contributed to creating a strong demand for reparative justice. Through consultative stakeholder forums, technical meetings and research and publications, ICTJ created awareness on the options for implementing the recommendations of the TJRC report. A number of civil society practitioners interviewed for this evaluation reported that ICTJ was especially instrumental in ensuring that a robust framework for reparative justice was

incorporated in the TJRC's recommendations. ICTJ was also credited with facilitating a reflection meeting for civil society at which the different recommendations of the TJRC were prioritized into short, medium and long-term, thereby enabling organizations to better plan and sequence their advocacy interventions in support of the implementation of the TJRC's recommendations.

Representatives of victims' intermediary groups that were consulted through key informant interviews and FGDs indicated that ICTJ experts have contributed to building their knowledge on the idea of reparative justice. They spoke highly of the quality of the ICTJ experts who facilitated several discussions on the subject, and brought to the fore the opportunities and limitations of reparative justice.

A critical achievement of ICTJ is its success in convening officials in the Directorate on National Cohesion and National Values in the Ministry of Interior and National Coordination (The Presidency), and making high quality technical inputs into the Directorate's planning on the options for reparations for victims as recommended in the TJRC report. Officials and civil society partners consulted for this evaluation, intimated that ICTJ got buy-in for the reparations agenda from the Ministry of Interior by successfully demonstrating to the Ministry that this agenda would not only serve the interests of justice, but would also be politically less costly than other justice options- a rare form of pragmatism seen in human rights organizations locally or even globally. Commenting on the support received from ICTJ, one official reported that:

> *"ICTJ is a professional organization with a good technical understanding of the issue of reparations. We have had our horizons broadened during our interactions with ICTJ, and we can confidently say that ICTJ has played a great role in helping us frame our policy for the implementation of TJRC's recommendations. We can only hope that they will continue to support us."* **Official at Directorate on National Cohesion and National Values in the Ministry of Interior, Office of the President.**

The Directorate has been able to influence the establishment of an inter-ministerial committee mandated to develop a mechanism for the implementation of reparations as recommended in the TJRC report. ICTJ and its partner Kenya Human Rights Commission (KHRC) have been asked to develop the terms of reference for this mechanism, and there is the possibility that they will sit on the coordinating committee for the mechanism.

Although the Directorate on National Cohesion declined to confirm it one way or another, it is likely that ICTJ's technical advice to the Directorate (which is anchored in The Presidency) partly influenced the GoK's progressive policy on reparations communicated by the President in his April 2015 State of the Nation address. In his policy speech, the President not only announced the establishment of a three-year Kshs. 10 billion (approximately 100 million USD) reparations fund, but also apologized to all victim of human rights violations that have occurred in the country since independence. While this speech is seen as timely and deserving of the support of the Kenyan and international human rights movements, the decision appears to have lacked consultation, negating any recommendations that may have been made on the quantum for monetary compensation and implementation timelines.

3.3 EFFICIENCY

Efficiency measures the extent to which inputs contributed cost-effectively to realization of outputs. Efficiency therefore looks at program design, management, program approaches, innovation, and value-for-money. It is also concerned with how results are measured, and how learning occurs- M&E, and how risks are anticipated and mitigated.

Summary of Key Findings
- *Program had comprehensive, holistic design including technical assistance, training, research, advocacy and community outreach;*
- *Program reviewed changes in the political and policy environment, adjusted its path accordingly, but did not have a clear, documented risk management plan;*
- *Program succeeded in part because of well-trained and committed staff*
- *Program succeeded because of effective management, coordination and oversight;*
- *M&E systems and practices were weak;*

Program Design

This evaluation finds that the Kenya Program 2012-2014 had a comprehensive and holistic Program design that included technical assistance, training, research, advocacy and community outreach. This combination of approaches is highly appropriate for addressing the complex transitional justice context in Kenya. The Program also had clearly articulated and realistic objectives, and Program activities were adequately aligned to Program objectives, and justified with activity concept notes.

ICTJ reviewed the changes in the political and policy environment relating to transitional justice work every six months, documented emerging issues and adapted Program strategies and activities accordingly in its half-year plans. This ensured that the Program's strategy and activities evolved over time in response to the changing political and policy context. This is a good practice that is rarely undertaken by groups in Kenya's governance sector, which tend not to adjust their initial proposals to match the exigencies of dynamic contexts.

While ICTJ did not have a formal risk management plan, the regular context analysis enabled the Program to identify risks early on and to develop relevant mitigation responses. However, this evaluation finds that the Program document did not identify the assumptions on which Program delivery strategies rested, and how they weighed against identified risks. While this evaluation was unable to determine the effect on performance of this gap on the implementation of the Program, it urges ICTJ to acknowledge that good programming practice requires that risks assessments, and the identification of assumptions on which a program is based, are undertaken in order to determine whether risks outweigh the assumptions on which a program is based. Where they do, then there is a strong likelihood that a program will fail to deliver on its objectives, and program investments will have been wasted.

Evaluation of ICTJ Kenya Program 2012-2014
International Centre for Transitional Justice

Program Management

Figure 1: Program Architecture and Reporting Mechanism
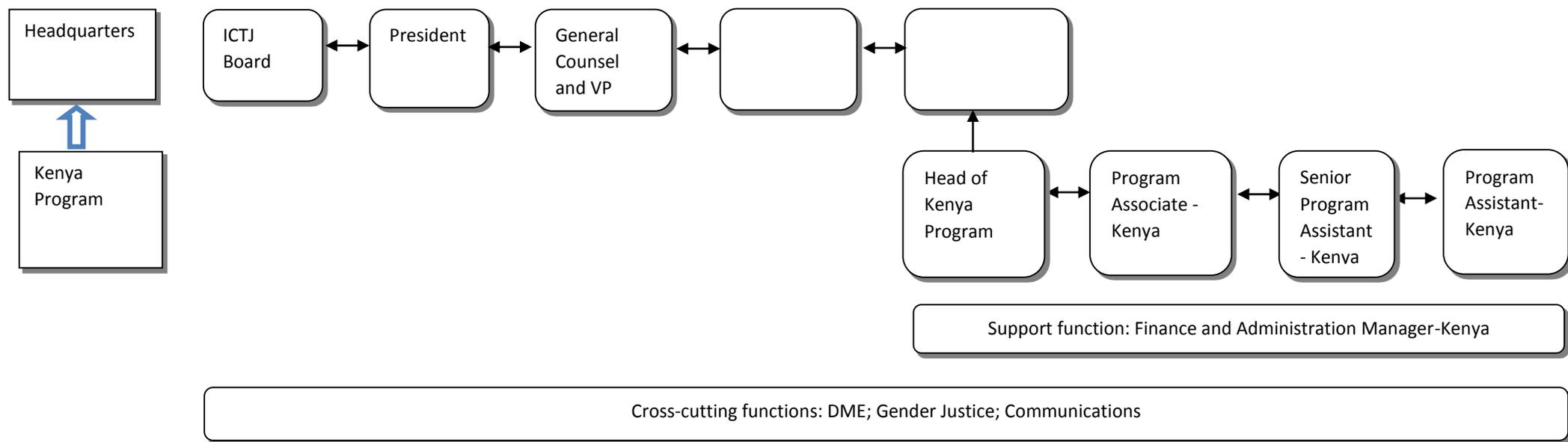
The success of the ICTJ Kenya Program 2012-2014 partly rests on the fact that it had well-trained and committed staff. The recently recruited Program Associate is on her way to completing a Master's degree in peace building and conflict resolution, and the Office Assistant is currently attending a long-term training in the same field. In addition, the Head of the Kenya Program will soon undertake a fellowship in legislative drafting. ICTJ staff also attended international forums and fellowships where they updated their knowledge on new ideas in the field of transitional justice. This kind of investment in staff capacity building has obvious benefits for Program performance, and should be supported financially by the ICTJ Head Office and funding partners.

The Program succeeded because of effective management, coordination and oversight. However, given the broad scope of the Program there was a limited number of staff, resulting in strained capacity to provide all the required technical and management direction and support. Program staff tended to have heavy workloads- planning, implementation, monitoring and reporting, maintaining stakeholder relations, and enhancing their own learning- leading to some delays in implementation and occasional lapses in communication with partners and stakeholders. Commenting on the challenge of timely feedback, an FGD participated stated that:

> *"Follow up mechanisms are not strong at ICTJ. We attended their activities but after the activities we do not get feedback on what next…If we do, it is after a long time. Sometimes there are also delays in responding to email communication."* **Leader of Victims Intermediary Group.**

The staffing shortage is also partly responsible for the one-year lag in the start of the Program. Because of this shortage, the 2013 and 2014 operational years were crowded with activities that were not implemented in 2012 when the Program was scheduled to begin. The challenge of inadequate staff capacity was pointed in the previous evaluation but were not addressed until the Kenya Program 2012-2014 was well underway. It is commendable however that this challenge is now being addressed. The former Program Assistant has been promoted to Program Associate, and recruitment for a Program Assistant is ongoing. ICTJ has also hired an Office Assistant.

This evaluation finds, as the previous one did, that the Head of the Kenya Program cannot issue statements that are not approved by headquarters in New York. In the eyes of a number of key informants interviewed for this evaluation, this situation can fuel negative perceptions about the Program's effectiveness, relevance and local legitimacy. When civil society actors need to come together to take a public stand on a particular issue, ICTJ appears not to be able to join its partners in time. This seemed to be the case with the civil society lobbying against the punitive PBO Bill, which seeks to restrict the operating space of all civil society organizations: ICTJ could not publicly comment on this legislation in a timely way that made their influence felt and their views relevant.

Reporting and Monitoring and Evaluation

As pointed out in the section on "effectiveness", the ICTJ Kenya Program 2012-2014 did not have a results framework or an M&E plan. It does not appear to this evaluation that the

Program received adequate M&E guidance, even though M&E is a clearly stated priority of ICTJ. While a week-long training on Design, Monitoring and Evaluation (DME) was provided for the Kenya Program by New York headquarters staff, it appears there was no proper follow up in terms of the actual setting up of comprehensive M&E systems. While monitoring tools were provided to the Program, this evaluation found that there was no proper M&E plan that set out indicators, baseline values and targets for the Program. Without these, it was difficult for the evaluation to make the logical connections between the Program objectives or outcomes and outputs of activities.

Even so, ICTJ's program management mechanisms to some extent allowed for effective monitoring of progress and correction/adjustment as necessary, thereby partially compensating for the lack of a comprehensive results framework. The Head of the Kenya Program was also required to report progress on all planned activities on a monthly basis using a customized Excel database. This data was used for decision-making by the ICTJ management. The Kenya Program reported its progress to the Deputy Program Director on a fortnightly basis. On his part, the Head of the Kenya Program indicated that the reporting framework was useful for assessing program implementation effectiveness, and in identifying options for adjusting program approaches to optimize the effectiveness and relevance.

The Head of the Kenya Program reported to this evaluation that while the reporting schedule contributes to heavy workloads, it has all the same facilitated closer cooperation between the Kenya Program and the headquarters at New York. This evaluation also established that there are plans to implement additional measures aimed at improving reporting and M&E in the next Program cycle under the newly recruited Head of DME. Country offices will be trained on M&E and special tools for M&E will be developed in line with the provisions of the ICTJ current Strategic Plan.

Resources and Value-for-Money

This evaluation finds that the Kenya Program 2012-2014 achieved its objectives in part because adequate resources were available for all planned and approved activities. Program activities were generally completed within budget, and interventions were efficient and cost-effective. Occasionally, the RNE approved no-cost extensions when program activities experienced implementation delays.

Most of the funds received from the RNE grant seem to have been channelled towards achieving Program objectives. An evaluation of the Kenya Program 2012-2014 budget shows that a substantial percentage of the funding went directly to program activities. This is an indication of good value-for-money in program management.

Donor-Grantee Relations and Grants Management

The smooth management of the grant process by the RNE also contributed to the successes of the Program. The Kenya Program team expressed overall satisfaction with RNE's support, noting that funds were disbursed promptly, and the RNE responded to all queries adequately and in a timely manner.

3.4 COHERENCE AND COORDINATION

> **Coherence and coordination** relate to the extent to which the Kenya Program 2012-2014 established linkages with relevant programmes of GoK. It also relates to how well the Program partnered with other civil society organizations, in addition to touching on donor coordination.

Summary of Key Findings
- *ICTJ efforts to enhance coordination of transitional justice actors resulted in greater coherence;*
- *Partnerships enabled Program to broaden its grassroots presence and credibility;*
- *Effective coordination among civil society organizations on advocacy for implementation of TJRC's recommendations achieved;*
- *Development partners increasingly narrowing governance support down to focus on devolved governance, counter-terrorism and business and trade, less funding available for transitional justice-related themes;*

A strength of the Kenya Program 2012-2014 that was also noted in the previous evaluation was that it worked through existing civil society networks to optimize its effectiveness. Established networks were preferred, and included: the PRWG, the ICC Coalition, the Gender Based Violence (GBV) Working Group, KPTJ and KTJN. A new innovation was the formation of implementation partnerships with community-level groups, including groups like IDPAK, Grace Foundation and Wangu Foundation. This recommendation on working through partnerships and coalitions had been made in the previous evaluation, and enabled ICTJ to broaden its grassroots presence and credibility as well as its outreach activities.

Owing to the deep expertise that ICTJ has on issues of transitional justice, it has emerged as the key convener of actors working on transitional justice, and therefore plays a key role in leading some of these networks. ICTJ's approach of work through the KTJN and PRWG was strategic as the networks provided good platforms for organizations to share information about their activities, to learn from each other and to jointly strategize to influence the transitional justice agenda. In particular, the KPTJ list-serve continued to be a good platform for organizations working on transitional justice to share information and learning.

ICTJ also played an important role in bringing various victims' intermediary groups together to share information, lessons and experiences, thereby enhancing solidarity between them. This was important in strengthening their voices and improving their potential for effective action.

While there can be intense disagreements within networks such as KPTJ and KTJN as to priorities and approaches, relationships between members remained mutually respectful and members acknowledged the importance of partnerships in bringing coherence to the work of civil society. Moreover, the competition for resources and visibility that has for long bedevilled the governance sector in Kenya, does not seem to be a major challenge among the members of these transitional justice networks, who seem to appreciate the need for meaningful partnership and linkages between themselves.

Effective coordination was achieved in relation to the role of civil society in the implementation of the TJRC's recommendations. This is directly attributable to ICTJ's convening power, in particular its efforts to convene the KTJN to discuss and prioritize advocacy options for pursuing the implementation of the recommendations of the TJRC. Victim intermediaries also expressed confidence in the technical capacity of ICTJ to represent their interests in discussions with the Directorate on National Cohesion and Values on reparative justice. On their part, the victim intermediary groups- NVSN, National IDPs Network, Grace Agenda, Wangu Kanja Foundation and others- are working to organize victims to benefit from the expected reparations.

Another example of coherence and coordination can be seen within the PRWG. In 2013, the NPSC required support to profile the Commission and its work. PRWG members- ICTJ and International Commission of Jurists (ICJ)-Kenya, stepped in to provide support in a way that did not result in duplication or competition. On the one hand, ICTJ offered to support the production of a documentary on the issue of police vetting, while ICJ Kenya provided support for development of a website for the NPSC.

This evaluation finds that efforts to improve coordination of actors working on transitional justice resulted in more coherent work in the field. The approach of working through networks, such as KTJN and PRWG, created opportunities for ICTJ and its partners to learn about, acknowledge and effectively deploy each other's comparative strengths. Groups like ICTJ, WAYAMO, KHRC and ICJ Kenya, have increasingly specialized in providing technical assistance to civil society and government agencies on issues of transitional justice, such as the formation of the ICD. On the other hand, organizations such as Kituo Cha Sheria and Katiba Institute, are focusing their energies on transitional justice-related litigation (e.g. Kituo Cha Sheria's post-election related sexual violence cases) where they have a comparative advantage over the others.

At the donor level, there is a long-standing mechanism-the Kenya Donor Group on Democratic Governance (DGDG)-for coordination of funding for human rights and governance-related programs. Increasingly, the DGDG members are pooling their resources through baskets such as the Drivers of Accountability Program (DAP), Uraia and United Nations Development Program's (UNDP) Civil Society Democratic Governance Facility-Amkeni WaKenya, to enhance coordination, efficiency and effectiveness of resources spent on human rights and governance programs. Through better coordination at the donor level, there will be less duplication and competition as civil society partners working on human rights and governance will be increasingly encouraged to focus on the areas where they have comparative advantage.

In spite of this good coordination mechanism, this evaluation notes that the focus on governance by donors is increasingly narrowing down to support to the implementation of devolved governance, counter-terrorism as well as the areas of business and trade. This evaluation established that for the most part funding partners in Kenya are less and less inclined to fund governance programs focusing on transitional justice-related themes. Therefore, groups like ICTJ need to position themselves to play a role in influencing decision-making in the DGDG, which has shown a willingness to be convened by civil society actors.

3.5 IMPACT

Impact describes the positive and negative changes produced by the Kenya Program 2012-2014 y directly or indirectly, intended or unintended'. Impact focuses on the long-lasting benefits delivered by the Program and the real difference they have made to beneficiaries.

Summary of Key Findings
 − *Program provided critical technical inputs to transitional justice policy processes;*
 − *Program contributed to enriching policy debates on Kenya's own ICD;*
 − *Program directly contributed to the development of new frameworks for the NPS;*
 − *Program did not focus on alternative mechanisms e.g. District Peace Committees;*

It is obviously too early to make an authoritative assessment of the impact of the ICTJ Kenya Program 2012-2014 since it is only a few months since it ended. Moreover, the impact of such a program must be approached with the understanding that it was in operation alongside other similar facilities and actors. For instance, in addition to ICTJ, KHRC, ICJ-Kenya and Kituo Cha Sheria have all been supported to undertake similar / related initiatives. However, this evaluation can say with a measure of confidence that the Kenya Program 2012-2014 has made lasting contributions in terms of its overall goal of "promoting the realization of truth, justice, reforms and reparations in Kenya". The fact that the Program was essentially a continuation of the previous Kenya Program 2009-2011, has solidified its impact.

This evaluation established that ICTJ has not only provided critical technical inputs to policy processes related to transitional justice, but it has also used its convening power to bring transitional justice actors together to jointly strategize, learn together and coordinate their activities. It is clear from the opinions of several individuals interviewed for this evaluation that the Program contributed immensely to the content of the TJRC's analysis and recommendations on the options for reparations for victims of past atrocities. It is clear that the Program contributed to policy change with respect to the implementation of the TJRC's recommendations on reparations. Owing partly to ICTJ and its partners' lobbying, and the technical support offered to the Directorate of National Cohesion in the Ministry of Interior, there is now an appetite within GoK to support the idea of reparations for victims of past atrocities. It is likely that the April 2015 announcement by the President of a reparations fund, was to some extent influenced by ICTJ's contributions to the work of the Directorate of National Cohesion, which is advising the government on the implementation of the TJRC's recommendations.

By bringing comparative perspectives on the nature of ICD from other jurisdictions, the Program has contributed to enriching policy debates on the options for Kenya's own ICD, which if set up would give Kenya a stronger infrastructure for trying international crimes. The Program has also directly contributed to the development of the legal framework for implementing much-needed personnel management reforms in the NPS. However, these regulations are yet to be adopted by the NPSC, and therefore, their effect on the policing operations and human rights compliance of the police remain to be seen.

Policymakers consulted for this evaluation affirmed that ICTJ's capacity strengthening interventions have broadened their scope of understanding of various transitional justice

issues, particularly the ideas of reparations and vetting of public officials. These interventions have also demonstrated to government agencies that civil society organizations have experience and expertise that can be beneficial to their work. However, ICTJ's technical sessions on the idea of the ICD for addressing the post-election violence have not yielded much benefit in terms of providing redress for the 2007-2008 post-election violence as it appears that the ICD is viewed by GoK as a mechanism that should address future atrocities, and not to excavate the past.

This evaluation finds that the ICTJ Kenya Program 2012-2014 and in partners in networks such as KTJN and PRWG have engaged strategically with various transitional justice processes, and consequently contributed to policy debates and change. While some of the partners may have adopted confrontational approaches in some of their interventions, for the most part, they appreciated the need for dialogue with government institutions as the most sustainable way for realizing transitional justice-related policy change.

As pointed out in the previous evaluation, ICTJ has not sufficiently focused on other alternative mechanisms that can provide justice to victims. In particular, ICTJ has not linked with the official District Peace Committees (DPCs) and other grassroots mechanisms, which have and can play an important role in reconciling and healing communities that have been in conflict. ICTJ has also not engaged significantly with the question of land and land rights, and the networks of organizations working on land. Land rights violations are at the heart of conflict and massive human rights violations in Kenya. Addressing grievances over land therefore has to go beyond the focus on reparations, and involve advocacy for criminal accountability for land rights violations, in addition to changes in the legal and policy framework that are address land-related inequalities.

4. LESSONS LEARNED

1. Being persistent, and having long-term objectives are good guarantees for success when working on transitional justice issues. By having closely related programs over the past two Program cycles, ICTJ has been able to deepen and consolidate the effects of its work.

2. A good program design must have a clearly articulated results framework (or intervention logic). Where this is lacking it becomes difficult to align interventions and desired outcomes to strategic objectives. Consequently, accurately accounting for results becomes a challenge.

3. A non-confrontational approach to human rights work gains one allies where they might not expect to have them. By being non-confrontational an organization is more likely to keep its eyes on the prize, and to better discern from tactical and strategic choices.

4. The value of working with and through partners and networks, and to listening to these partners cannot be overstated. This approach helped ICTJ to reach actors and places where it did not have a reach e.g. the grassroots in Nairobi's informal settlements. Moreover, different partners enjoy more legitimacy in different contexts, and working with a diversity of such actors has helped ICTJ to amplify its influence, and thereby improve the effectiveness and relevance of its interventions.

5. Civil society groups should not just offer criticism but should also be solutions-oriented. The interaction of groups like ICTJ, KHRC and ICJ Kenya with the TJRC, the Directorate of National Cohesion in the Ministry of Interior and the NPSC, demonstrates that there is space to develop mutually respectful partnerships with government agencies. However, effective groups must be able to keep an objective distance from government in order to be able to criticize it when there is need. Striking the right balance is difficult to achieve.

6. Civil society groups working on human rights and governance issues need to continually adapt normative models from other jurisdictions to their own unique contexts to be relevant. This lesson was highlighted in the previous evaluation. For instance, Human Rights Network (HURINET)-Uganda's work on the conflict in northern Uganda appeals to a broad cross-section of actors as it is based on the need in the unique context in northern Uganda to bridge the gap between the discourses of peace and human rights, which is highly relevant to victims on the ground.

7. Most Kenya human rights groups are not putting much investment in capacity building, particularly in relation to documentation of human rights violations and security of human rights defenders. These are two critical aspects of human rights work that require urgent attention in Kenya.

8. With the implementation of devolution underway in Kenya, there is room for civil society groups to bring their expertise and experience to influence county governments in cosmopolitan counties to address issues of land rights and resource-sharing in ways that can promote reconciliation, healing and cohesion.

9. Civil society groups in Kenya are not self-driven in terms of insuring their financial sustainability. Most of them, like ICTJ and its partners, rely on donor funding and have not vigorously explored other funding options, such as endowments and partnerships with the private sector. It is therefore unsurprising that they remain over-reliant on donor funding, which raises issues about their identity, their independence, and their sustainability.

10. The ICTJ Kenya Program needs to place more emphasis on thinking about its long-term sustainability. The ICTJ Kenya Program is yet to diversify its funding base beyond the RNE to an extent that they can be termed as sustainable. This creates instability as the reliability of funding from just one donor cannot be guaranteed. In the event of withdrawal of RNE funding for whatever reason, it is very likely that ICTJ's operations would be completely grounded.

5. RECOMMENDATIONS

This evaluation makes several recommendations that could be applied in a future ICTJ Program. ICTJ's partners and stakeholders could also find some of the recommendations to be of interest. It is recommended that ICTJ prioritizes these recommendations to identify those that can be implemented in the short term, and to develop a strategy to address those that require more time.

1. Program design

1.1 ICTJ should consider developing a clear results framework for future programs. ICTJ should generate indicators and baseline values for program outcomes and outputs, and propose targets for achievement.

Figure 7: Sample results framework matrix

Outcome			
Outcome indicator			
Baseline	Year		2015
Target	Year		2020
Output 1			
Output indicator			
Baseline	Year		2015
Target	Year		2020
Output 2			
Output indicator			
Baseline	Year		2015
Target	Year		2020

1.2 ICTJ's future program proposals should feature a clear risk management plan, with clear risk mitigation responses. Program proposals should clearly outline the assumptions on which delivery strategies are based, the related risks and how assumptions and risks weigh out against each other. The risk management plans should be regularly reviewed during program implementation in order to be aligned to changes in the operating context.

1.3 One of the concerns expressed by some of ICTJ's stakeholders is that they had limited input into the Kenya Program's design process yet they were defined as stakeholders and/or beneficiaries. Future program design activities should allow for greater stakeholder input. This can help ease any lingering suspicions among stakeholders and beneficiaries.

1.4 Activities carried out by ICTJ lack clear follow up plans. From the M&E perspective, there is difficulty in estimating how knowledge and skills imparted at training activities are being applied. In addition to carrying out pre and post training testing, ICTJ should consider working with training participants to develop individual and organizational action plans that provide direction on how they can apply the knowledge and skills obtained to inform programmatic and institutional activities in their respective organizations.

1.5 Reporting could be made monthly as opposed to the currently fortnightly basis in order to address workload and allow staff to focus on implementation. The Kenya Program also needs to develop a mechanism for ensuring there is timely follow up with issues from activities, and timely responses to all communications.

1.6 ICTJ needs to address the issue of responsiveness and the level of autonomy of the Kenya Program, particularly in terms of the space it has to engage the media. This issue had been raised in the previous evaluation, but has not been adequately addressed.

2. <u>Donor coordination</u>

2.1 Groups like ICTJ need to position themselves to play a role in influencing decision-making in the Kenya DGDG, which has shown a willingness to be convened by civil society actors. Given the right evidence, the DGDG can be influenced to increase funding to transitional justice-related areas, and to improve funding coordination among its members.

3. <u>Legal and policy advocacy</u>

3.1 ICTJ needs to urgently convene civil society actors to begin to reflect on and make recommendations on the implementation of the provisions of the President's speech on reparations.

3.2 Civil law action for human rights atrocities is an area that ICTJ has not previously focused on. This is an approach that is conceivably less threatening than criminal law action. ICTJ could there consider supporting civil litigation, which also has the potential to catalyse institutional reforms.

3.3 ICTJ needs to develop a strategy for lobbying parliamentarians as they are critical to for ensuring the adoption and passage of national policy and laws. ICTJ must lobby parliamentarians more vigorously to see to it that transitional justice-friendly policies and laws are adopted/passed.

3.4 ICTJ should consider developing a Kenyan-specific media strategy to strengthen its awareness build awareness initiatives, and to increase demand-side support for its policy advocacy work.

4. <u>Effective lobbying by KTJN members:</u>

4.1 GoK institutions tend to hold the view that groups working on human rights and governance are reactionary and do not adequately appreciate policy processes. This perception is to some extent true, and has tended to hinder access to government institutions. As part of its regular capacity building and reflections for its civil society partners, ICTJ could consider training its partners on less confrontational approaches to human rights work and policy influencing. ICTJ partners working on human rights and governance could also benefit from training on how to frame policy arguments and to develop data-oriented policy proposals.

4.2 There is an apparent restriction of the operating space for civil society in Kenya, and the continuing tolerance for human rights violations and impunity for the same from GoK. Therefore, ICTJ and its partners need to reflect on whether transitional justice work can be undertaken in a context where there are apparent reversals of human rights protections as is currently happening in Kenya.

5. Research and publications:

5.1 ICTJ has broad, rich body of data and information on human rights violations that could be of interest to scholars in some of the universities in Kenya and beyond, and could form the basis of partnership and more research-driven advocacy as well as fundraising. This recommendation was made in the previous evaluation, and should be reconsidered as it is key for sustainability of capacity strengthening and coalition-building in the future.

5.2 ICTJ's publications have proved to be useful in improving public understanding on transitional justice issues. Consequently, they should be simplified to be less technically-oriented so that they can reach a broader audience.

6. Police vetting and human rights:

6.1 ICTJ has the expertise to assist the NPSC to ensure that human rights compliance becomes a central aspect of the ongoing police vetting process. This may require ICTJ to engage with members of the PRWG to assist them to develop well-researched and supported dossiers on the performance records of well-known human rights violators in the NPS. Even just a few successful terminations of senior police officers on the basis of human rights compliance will likely have a positive impact on policing culture and practices as it will become apparent to officers that human rights compliance are in fact be grounds for performance assessment, dismissal and punishment- something that is not yet a part of the management of policing in Kenya.

7. Staffing and staff development:

7.1 There is need to continue investing in capacity building of staff, and increasing the number of staff at the ICTJ Kenya Program. Increases in salaries should also be factored into the reward system for staff.

8. Sustainability:

8.1 ICTJ requires a resource mobilization/fundraising strategy that targets multilateral and bilateral donors, foundations as well as the private sector.

ANNEX 1: DOCUMENTS REVIEWED

ICTJ, Original Renewal Grant Proposal, July 2011

___, ICTJ Three-Year Strategic Plan 2012-2014

___, WORKPLAN YEAR 2, 2014

___, ICTJ Kenya Program, Year 3, Work Plan Narrative, Jan-Dec 2014

___, FY13-FY14: Two-Year Country Plan (Kenya)

___, Program Implementation Budget Feb 2012-Jun 2014

___, Half Year Report, Apr-Sept 2014

___, Annual Report Apr 2012-Mar 2013

___, Annual Report for Year 2: Jan-Dec 2013

___, Quarterly Reports 2013 (Jan-Mar, Apr-Jun, Jul-Sept)

___, Quarterly Reports 2014 (Jan-Mar, Apr-Jun, Jul-Sept, Oct-Dec)

___, Various Concept Notes for Planned Activities (total of 17 concept notes received, and reviewed)

___, Various Activity Reports (total of 6 activity reports received, and reviewed)

___, Draft Advisory on Implementation of Reparations

___, Accountability Gap on Sexual Violence in Kenya: Reforms and Initiatives since the Post-Election Crisis, 2014

___, Draft NPSC Communication Guidelines (Developed by ICTJ), 2014

___, Lessons to Be Learned: An Analysis of the Final Report of the TJRC, 2013

ANNEX 2: SCHEDULE OF KEY INFORMANTS INTERVIEWS

	Date	Respondent name	Position and institution
1.	07/04/2015	**Chris Gitari**	Head of Office, ICTJ
2.	15/04/2015	**Carole Abong**	Governance Manager, RNE
3.	15/04/2015	**Keffa Magenyi**	Executive Director, IDPAK
4.	20/04/2015	**Victor Bwire**	Deputy Director, Media Council of Kenya
5.	21/04/2015	**Waikwa Wanyoike**	Executive Director, Katiba Institute
6.	28/04/2015	**Beatrice Omollo**	Finance Manager, ICTJ
7.	28/04/2015	**Rosemary Machua**	Former Head, JM Foundation
8.	28/04/2015	**Wafula Buke**	Chair, NVSN
9.	01/05/2015	**Wachira Waheire**	Coordinator, NVSN
10.	01/05/2015	**Njonjo Mue**	Former Head of Office, ICTJ
11.	02/05/2015	**Murshid Mohamed**	Commissioner, NPSC
12.	04/05/2015	**Aimee Ongeso**	Legal Officer, Kituo Cha Sheria
13.	04/05/2015	**Andrew Songa**	Senior Program Officer, KHRC
14.	04/05/2015	**Jacqueline Mutere**	Coordinator, Grace Agenda
15.	05/05/2015	**Javan Bonaya**	Directorate of National Cohesion, Office of the President
16.	11/05/2015	**Agatha Ndonga**	Program Associate, ICTJ
17.	12/05/2015	**Rosemary Tollo**	Coordinator, Journalists for Justice
18.	22/05/2015	**Ruben Carranza**	Director Reparative Justice Program, ICTJ

ANNEX 3: FOCUS GROUP DISCUSSION PARTICIPANTS

<u>22/4/2015 FGD in Nairobi with female representatives of victims intermediary groups</u>

<u>Participants</u>

June Yegon: former TJRC Statement Taker, Secretary of GBV Baringo

Linda Munyundu: Peer Counsellor, Gender Violence Recovery Centre-Kenyatta National Hospital

Margaret Larabi: Official, Nam Nyak (Blessing) Women's Rights NGO

Lucy Njeri Gitama: National IDPs Network Women Representative

Fatuma Abdurahman: National IDPs Network Deputy Chairperson

Evelyn Kiwerwa: TJRC Statement Taker, Women's Rights Activist

<u>22/4/2015 FGD in Nairobi with male representatives of victims intermediary groups</u>

<u>Participants</u>

James Apiny: Former Kenya Air Force Soldier, wrongfully imprisoned for 14 years

Capt. Joseph Leo: Former Kenya Air Force Soldier, wrongfully imprisoned for 14 years

Maj. Irungu: Former Kenya Air Force Soldier, wrongfully imprisoned for 14 years

Gerald Kipkoima: Representative of Endorois Community in their eviction case

Manthi wa Musyoka: Coordinator of Eastern Region Human Rights Network

Raphael Eyanai: National IDP Network General Secretary);

Peter Gitahi: National IDPs Network-Nyeri County Coordinator);

ANNEX 4: MASTER QUESTIONNAIRE FOR KEY INFORMANT INTERVIEWS

Section 1: Relevance	Respondent
1. Was this Program consistent with the prevailing governance reforms context in Kenya?	ALL
2. To what extent was it aligned to the key development plans and strategies for improving democratic governance in Kenya? Which plans and strategies are these, and what is the evidence?	ICTJ
3. Has ICTJ Program focused on the most critical transitional justice issues in Kenya?	ALL
4. Was the Program technically adequate to address the needs of its intended beneficiaries? What is the evidence?	ICTJ
5. Were the Program's objectives relevant throughout the entire duration of the lifetime of the Program?	ICTJ
6. What was the relationship between the Program and other initiatives supported by other donors?	ICTJ
7. How seriously are the contributions of ICTJ taken by policymakers working on issues of transitional justice? What is the evidence of the uptake of the research, policy advice and technical assistance offered by ICTJ to these institutions?	ALL
8. What is the evidence that, owing to its interventions, ICTJ has established itself as an authority on transitional justice in Kenya?	ALL
9. Provide recommendations on how to improve relevance.	ALL
Section 2: Effectiveness	**Respondent**
1. What forms of support did ICTJ provide during the Program period to stakeholders to participate in accountability, justice and reform processes? How useful was this support?	ICTJ
- *What have been the results of ICTJ technical support to the National Police Service Commission? What is the evidence?*	ICTJ, NPSC, PRWG
- *How did ICTJ contribute, if at all, to building greater public confidence in the police vetting process?*	ICTJ, NPSC, PRWG
- *Has ICTJ provided any technical Assistance to the AG and implementing bodies on the TJRC report? What have been the results? What is the evidence?*	ICTJ, AG, TJRC
- *What has been the result of ICTJ engaging the Departmental Committee on Legal Affairs and the Attorney General to discuss the TJRC Report and implementation? What is the evidence?*	ICTJ, AG, DCLA
- *What steps to ICTJ take to build the capacity of local organizations to enable them play a rigorous role in monitoring the police vetting process?*	PRWG, CSOs, victim's groups
- *What forms of technical support has ICTJ provided to the National Land Commission (NLC)? How has it delivered this technical support amidst the infighting and instability at the NLC?*	ICTJ, NLC
- *What work has ICTJ done with constitutional and statutory commissions who have a mandate similar to the TJRC, to support truth-seeking?*	ICTJ, (institutions identified by ICTJ)
- *Did ICTJ work with the JSC and other actors on the establishment of a credible, transparent and effective International Crime Division (ICD) of the High Court through technical assistance and research services? What is the evidence?*	ICTJ, JSC
2. What forms of support did ICTJ provide during the Program period to victim-centred truth-seeking processes? How useful was this support, and what is the evidence?	ICTJ, victim's groups

-	*What has ICTJ done to engage the ICC's Victim Trust Fund in its work, and to promote it among victims of the 2008 postelection violence?*	ICTJ, victim's groups, CSOs
-	*What has ICTJ done to support demands for victim participation at both domestic and international level?*	ICTJ, victim's groups, CSOs
-	*What has ICTJ done to support demands for an effective witness protection program?*	ICTJ, AG
3.	What forms of support did ICTJ give during the Program period towards promoting credible and effective domestic measures to pursue criminal accountability and justice for post-election violence? How useful was this support, and what is the evidence?	ICTJ, CSOs, all key GoK agencies
-	*How did ICTJ support demands for investigation and prosecution of ordinary crime (especially serious crimes) that were perpetrated during the PEV? What is the evidence?*	ICTJ, CSOs, all key GoK agencies
4.	What did ICTJ do during the Program period to foster the adoption of measures towards realization of victims' right to reparation? How useful were these efforts, and what is the evidence?	ICTJ, CSOs, all key GoK agencies
-	*Has ICTJ worked to support a victim's mapping exercise for purposes of reparations? What is the evidence?*	ICTJ, CSOs, victim's groups
-	*How well has ICTJ engaged stakeholders and in particular CSOs on the issues of reparations and police vetting? What is the evidence?*	ICTJ, CSOs, TJRC, NPSC
-	*Which inquests did ICTJ participate in, given its concern about the weakened Kenya ICC cases? What have been the results of engaging with/initiative these inquests?*	ICTJ, CSOs
5.	Provide recommendations on how to improve effectiveness.	ALL
Section 3: Program delivery methodologies		**Respondent**
1.	What was the Program structure? What were Program inputs e.g. staffing, finances etc? Were the outputs enough to warrant the outcomes? Where they the right outputs? Were you doing enough to produce those outcomes?	ICTJ, CSOs, all GoK agencies, media
2.	What capacity building/technical assistance mechanisms was used? How effective were they? What is the evidence?	
3.	What steps were taken to build and maintain TJ networks? How effective are these networks as a result of ICTJ efforts?	ICTJ, CSOs, media
4.	What knowledge management systems and approaches were used? How effective were they?	ICTJ
5.	What was the nature of the uptake of the publication on gender justice? What is the evidence?	ICTJ, CSOs, all GoK agencies, media
6.	What was the nature of the uptake of the publication on reparations? What is the evidence?	ICTJ, all GoK agencies, media
7.	Do you know of any policy briefs developed by ICTJ during the period 2012-2014? Have you used these briefs, and how useful have they been for your work?	ICTJ, all GoK agencies, media
8.	How were the main Program delivery methodologies integrated?	ICTJ
9.	ICTJ asserts in its Jan-Mar 2014 progress report that, 'continuous engagement with key GoK actors in these sectors as a strategy which appears to be paying off'. What is the evidence?	ICTJ, CSOs

10. How effective and realistic is it to lobby officials on the need promote the TJ agenda as set in Agenda Item Number 4 in order to stem future abuses? Is there any evidence that this kind of lobbying is working on officials?	ICTJ, CSOs
11. According to ICTJ's Jan-Mar 2014 progress report, ICTJ takes the deliberate stance to "focus less emphasis on criminal accountability which the State views as threatening" and more on "areas that are less threatening such as reparations and institutional reforms". What are the implications for this approach on overall agenda for TJ?	ICTJ, victim groups, CSOs, all GoK agencies, media
12. What did ICTJ do to "embolden" officials of the NPSC to take action against errant police officer? Did these approaches work? What is the evidence?	ICTJ, NPSC, PRWG
13. How did ICTJ taken advantage of 2014 police recruitment to engage with other aspects of the police reform process, such as development of the police training curriculum?	ICTJ, NPSC, PRWG
14. What was ICTJ's response to the worsening security context in 2014? Did ICTJ see the linkages between these patterns and trends in insecurity and Kenya's history of human rights violations and impunity? What is the evidence?	ICTJ
15. Has ICTJ provided any technical Assistance to the AG and implementing bodies on the TJRC report? What have been the results? What is the evidence?	ICTJ, AG,
16. What kind of strategies are most effective for pursuing transitional justice in an unstable political context like Kenya's, which has arguably not entered into a transitory phase?	ALL
17. Provide recommendations on how to improve Program delivery methodologies.	ALL
Section 4: Coordination and coherence	
1. What was the extent of coordination and partnership among ICTJ and its partners and stakeholders? Did the linkages, if any, contribute to better results? What is the evidence?	ICTJ, ALL
2. Has it worked effectively with interventions supported by other donor organisations that touch on transitional justice?	ICTJ, donors,
3. Was there any value added to linking community groups with national-level work and advocacy groups? What is the evidence?	ICTJ, victim's groups, CSOs
4. Provide recommendations on how to improve coordination and coherence.	ALL
Section 5: Efficiency	
1. Has the pace of activity implementation been satisfactory (or have there been any significant delays)?	ICTJ
2. If there were delays, how did they affect the achievement of the Program's objectives? What were the reasons for the delays?	ICTJ
3. What kind human, technical and financial resources did ICTJ dedicate towards the implementation of this Program?	ICTJ
4. Were the roles of the different Program implementation staff and stakeholders clearly delimited- conceptually and practically?	ICTJ
5. Did the Program attain any cost savings? What is the evidence?	ICTJ
6. Provide recommendations on how to improve efficiency.	ICTJ
Section 6: Impact	**Respondent**
1. Were baseline studies undertaken before this Program commenced? What were its key findings, conclusions and recommendations? How were these taken into account in the Program Program's design?	ICTJ

2. What are the long-standing benefits of ICTJ's interventions to policy change in the areas of: police reforms: investigations and prosecutions of post-election violence; Implementation of the TJRC report; and reparative justice?	ALL
3. To what extent were any successes experienced in the field attributable to ICTJ's Program?	ALL
4. Did civil society organizations strategically engage with transitional justice processes, and what were the outcomes of such engagement?	ALL
5. Is there any evidence that there may be unplanned (positive or negative) impacts of the Program? Explain.	ALL
6. Provide recommendations on how to improve impact.	ALL
Section 7: Cross-cutting issues: Gender, M&E	**Respondent**
1. Are there any gender issues that the Program intended to address? If so, what specific activities were conducted to address identified gender issues?	ICTJ
2. In your opinion, did Program implementers have good knowledge and understanding of gender issues related to transitional justice?	ICTJ
1. What M&E systems were in place for the Program?	ICTJ
2. Were M&E processes for the Program documented? What is the evidence?	ICTJ
3. Was there a good understanding amongst staff and stakeholders implementing the Program on the results of the Program?	ICTJ
4. Were the indicators of the Program well understood by those responsible for collecting data?	ICTJ
5. Did the Program have clearly identified targets?	ICTJ
6. What data management systems were put in place for the Program's M&E?	ICTJ
7. How was data verified and validated? How was the data and information generated in the Program utilised?	ICTJ
Section 8: Lessons learned and recommendations	**Respondent**
What lessons have you learned? Any best practices? Have you documented these lessons and practices?	ALL
What are the key lessons that ICTJ has learned in pursuing transitional justice in an unstable political context like Kenya's, which has arguably not entered into a transitory phase?	ALL
Do you have any recommendations on how ICTJ and other civil society actors can invest Program resources for greater impact in future transitional justice Programs? What modalities worked? Which ones did not what? What would you do differently next time?	ALL

ANNEX 5: GUIDE FOR FOCUS GROUP DISCUSSIONS

1. Introduce self, evaluation and FGD process

2. Please introduce yourselves and explain the nature of your relationship/association with ICTJ?

3. What is the nature of the relationship/partnership between your and ICTJ?

4. Have ICTJ's interventions been relevant to your needs? If so, it what way?

5. Has ICTJ involved you in planning the interventions?

6. What have been the achievements of ICTJ in relation to the issues that are of concern to you as victims? What is the evidence?

7. What are the positives of the partnership you have had/continue to have with ICTJ?

8. What are the challenges you experienced in your partnership with ICTJ?

9. How if at all can these challenges be addressed?

10. What recommendations do you have for ICTJ going forward to improve on its work and partnerships with victims?

11. Any questions for moderator?

ANNEX 6: KICK OFF MEETING MINUTES

Date: January 28, 2015, 2.30pm
Venue: ICTJ Kenya Program, Arwings Kodhek Road, Nairobi

Participants:
Mr. Chris Gitari (Executive Director, ICTJ Kenya)
Ms. Agatha Ndonga (Program Assistant, ICTJ Kenya)
Mr. Mikewa Ogada (Director, Adili Consulting)

Documents presented:
Technical Proposal for assignment (includes draft work plan)

<u>Discussions</u>

Mission focal point/liaison: It was agreed that the ICTJ Kenya contact person for this consultancy will be Agatha Ndonga.

Inception Report: It was agreed that the Inception Report would be developed after signing of the contract, and the due date will be determined at the time of signing of the contract. Inception report containing data collection tools and Evaluation Framework will be approved by ICTJ before the assignment begins.

Contract: It was agreed that the contract for the consultancy will be signed within the week of 2-6 February 2015.

Draft Final Evaluation Report: It was agreed that the report will be submitted not later than mid-April 2015.

Roles of ICTJ and Consultant:
-ICTJ will provide the consultant with a list of key partners and stakeholders that should be consulted for the evaluation. -The consultant will then develop a sampling strategy as indicated in the technical proposal.
-The consultant will arrange meetings with partners and stakeholders but may require assistance in some situations from ICTJ.
-ICTJ will cover costs of undertaking FGDs with victim groups in Nairobi.
-The consultant will not charge for transportation or communication costs for any work carried out within Nairobi.
-The consultancy will take 22 days to complete spread out between February 2 and April 15, 2015.

Consultancy coordinating meetings: No schedule for mission coordinating meetings agreed upon. (Consultant's recommends that this is agreed upon when Inception Report is submitted and approved).

ANNEX 7: CONSULTANCY TERMS OF REFERENCE

I.   Introduction

The International Center for Transitional Justice (ICTJ) requests a consultant to evaluate its Program in Kenya, entitled: *Promoting the Realization of Truth, Justice, Reforms and Reparations in Kenya*. This Program, funded by the Royal Netherlands Embassy, covers the period 2012 to 2014. The evaluation will be undertaken by an external and independent consultant, with work to be undertaken from **January 15, 2015**, and the final report to be delivered by **April 10, 2015**.

ICTJ assists societies confronting massive human rights abuses to promote accountability, pursue truth, provide reparations, and build trustworthy institutions. Committed to the vindication of victims' rights and the promotion of gender justice, we provide expert technical advice, policy analysis, and comparative research on transitional justice approaches, including criminal prosecutions, reparations initiatives, truth seeking and memory, and institutional reform.

To fulfill that mission, ICTJ links experience from its many field programs with its research in transitional justice. This allows ICTJ to develop, test and refine field practices and remain a research leader. ICTJ uses this knowledge to inform and advise governments, civil society and other stakeholders working on behalf of victims. It seeks to persuade those stakeholders, the media and the general public of the need for justice and accountability.

ICTJ works in societies emerging from repressive rule or armed conflict, as well as in other societies where legacies of abuse remain unresolved.

II.   Program Context

The Kenya National Dialogue and Reconciliation (KNDR) process was established by the African Union Panel of Eminent Personalities, led by H.E. Kofi Annan, to broker peace talks following the 2007 post-election violence. KNDR agreed on an annotated agenda for the achievement of sustainable peace, stability and justice in Kenya through the rule of law and respect for human rights, as set out in four main agendas. The dialogue resulted in an agreement between President Kibaki and Prime Minister Raila Odinga that led to the establishment of the Grand Coalition Government on February 28, 2008. This paved the way for the enactment of the National Accord and Reconciliation Act; agreement on the General Principles and Parameters for the establishment of an Independent Electoral Review Commission (IREC), Commission of Inquiry into the Post-Elections Violence (CIPEV) and Truth Justice and Reconciliation Commission (TJRC); a roadmap for a comprehensive Constitutional review process; and adoption of an implementation framework to address key underlying causes of the election-related violence (as set out in Agenda IV). Taken together, the post-election violence (PEV) crisis and resulting commitments to comprehensive reforms provided a historic opportunity to end the cycle of impunity in Kenya by ensuring accountability for historical injustices and crimes committed during the PEV, and providing justice for victims.

III.   The Program

In early 2012, ICTJ signed a grant with the Royal Netherlands Embassy to support its Kenya Program, covering the period February 2012 to December 2014. This grant was a continuation of a previous three year grant (2009-2011). The overall aim of the ICTJ programming is to contribute to making Kenya a more just, democratic, and inclusive society. Towards that end, this second three-year Program built upon past achievements and lessons learned to pursue the following specific objectives:

- Provide support for key stakeholders to participate in accountability, justice and reform processes
- Support victim-centered truth-seeking processes
- Support credible and effective domestic measures to pursue criminal accountability and justice for the post-election violence
- Foster the adoption of measures towards realization of victims' right to reparations.

The Program promotes reforms to guarantee non-recurrence of similar abuses. ICTJ is implementing this Program Programthrough various approaches, including:

- Providing technical assistance
- Undertaking research and analysis
- Pursuing national, regional and international advocacy
- Building capacity of civil society organizations
- Developing and supporting transitional justice networks.

IV.   Objectives of the Final Evaluation

The objectives of the final evaluation are:
5. To evaluate the performance of the Program, including its relevance, effectiveness, coordination and coherence, efficiency and impact, with a strong focus on assessing the results at the outcome level.
6. To provide recommendations to improve future planning, including advising on necessary adjustments to the programmatic agenda.

The principal recipients of the evaluation report will be:
- ICTJ Program team in Kenya
- The donor (Royal Netherlands Embassy)
- ICTJ program directors, based in New York.

V.   Scope of work

The evaluation will examine ICTJ's program in Kenya from January 2012 to December 2014.

The external consultant will work with ICTJ staff from the country office and from the headquarters in New York. These ICTJ staff will provide inputs on the analysis of technical aspects of the program work and contribute to the collection and review of transitional justice context information. The external consultant will lead the evaluation team.

The evaluation team is expected to use the evaluative criteria below and address the key evaluation questions:

▶ <u>Evaluation Criteria and key evaluation questions</u>

The consultant is expected to address the key evaluation questions below.

Relevance:
- Were ICTJ's program goals, objectives and strategy relevant to the transitional justice context in Kenya?
- To what extent were the program strategy and the set of activities relevant for supporting truth-seeking processes, reforming the security sector and developing reparative justice policies in Kenya?
- Did the program meet the needs of target groups, including victims groups?
- How could its program content and approach be improved to better meet their needs?
- How well did the program approach adjust to the changing context?
- Provide recommendations on how to improve the relevance of the Program.

Effectiveness:
- To what extent did the Program achieve the outcomes it planned to achieve? To what extent did the Program contribute to the achievement of its ultimate goal?
- What major factors contributed to the achievement, or not, of its objectives (include the factors of success and the challenges)?
- What unintended results (both positive and negative) did the Program bring about?
- How useful and relevant was the support provided by ICTJ, as perceived by victims groups, civil society organizations, key transitional justice institutions (such as the TJRC) and participating policymakers?
- How has the knowledge and capacity provided (through trainings and technical guidance) to TJ institutions and participating policymakers been used in their work? What have been the results of the use of that acquired knowledge?
- To what extent has the Program improved the strategy of victims groups and civil society organizations towards engaging with policymakers and transitional justice officials, and increased their ability to monitor transitional justice processes?
- How did civil society organizations use newly acquired capacities in their work and in their interactions with transitional justice officials and policymakers?
- Provide recommendations on how to improve effectiveness.

Coordination and Coherence:
- How effective was the coordination with other key partners in the transitional justice field? How well did the Program ensure cohesiveness in the work of the implementing partners?
- Did efforts at coordination result in more coherent work in the field?
- Provide recommendations on how to improve coordination and coherence.

Impact:

- Did the Program contribute to policy change or reform of political institutions or mechanisms that deal with:
  - Police reforms
  - Investigations and prosecutions of post-election violence
  - Implementation of the TJRC Report
  - Reparative justice?
- Did civil society organizations strategically engage with transitional justice processes, and what were the outcomes of such engagement?
- To what extent were any successes experienced in the field attributable to the program?
- Provide recommendations on how to improve impact.

Efficiency:
- How efficient and timely was the implementation of this Program, and was it managed in accordance with the Program design?
- Provide recommendations on how to improve efficiency.

As the evaluation team addresses those questions, the lead consultant must comply with the following requirements:
- Once the methods to be used for the evaluation are discussed and agreed upon with the ICTJ team, the consultant is expected to revise the technical offer or produce a document describing the methods and protocols
- The technical offer will provide a work schedule and establish the number of days worked. If some requirements or objectives of the evaluation cannot be met, the consultant should briefly justify his or her decision in the technical offer
- Complete the evaluation framework template (to be provided by ICTJ)
- The instruments used for data collection must be reviewed by the ICTJ team and the DM&E specialist and approved before the data collection commences.

▶ Other Assignments

The consultant will be required to conduct a workshop/online conference call to present the preliminary results of the evaluation to staff, and possibly other stakeholders. The consultant will incorporate this feedback into the draft report.

VI.   Approach and methodology

The evaluator will suggest the appropriate evaluation design and methodologies for this final evaluation, which will be discussed with the Program team in Kenya and the ICTJ Senior Associate, Design, Monitoring and Evaluation. The evaluation should at least include the following components:

- Desk review: all Program documents (Program proposals, progress and monitoring reports, correspondence with the donor, etc.)
- Methods used to measure key indicators
- Semi-structured interviews with policymakers who took part in the Program

- Key informant interviews with ICTJ staff, key stakeholders and experts in TJ (not involved in the implementation of the Program)
- Key informant interviews with ICTJ staff and key partners and stakeholders

No field visits outside Nairobi will be required.

▶**Quality control**

The evaluation will be conducted in accordance with the OECD-DAC Evaluation Quality Standards (see http://www.oecd.org/dataoecd/55//44798177.pdf). Moreover, if required, ICTJ reserves the right to carry out quality control activities during the fieldwork to ensure that the data is being properly collected.

VII.   Deliverables

Before the fieldwork:
- Evaluation Framework (template to be provided by ICTJ)
- Technical offer or a document describing the methodology in detail
- Questionnaires, discussion guides and other data collection tools.

By the deadline:
- Electronic data files, if relevant
- A final evaluation report. The final report shall include the following sections:
  - Executive summary. This should include: a paragraph describing the program; a paragraph summarizing the methodological approaches used; key findings, including a summary of targets and intended outcomes; a conclusion of the program relevance and its contribution towards the final goal.
  - Table of program indicators measured, if relevant.
  - Methodology. This section should describe each method used and the target groups involved. Regarding quantitative methodologies, the section must describe the sampling strategy, the type of analysis carried out and the statistical parameters so that the reader is able to establish the rigor of the data collected. Methodological constraints, challenges and limitations should be also discussed in this section.
  - Findings and analysis, addressing evaluation questions.
    - The findings can be presented under evaluation criteria or by domains of impact. **IMPORTANT**: as much as possible, the findings must be supported by evidence. Relevant Program indicators must be used in the analysis under this section. When evidence relies on perception or feedback of stakeholders interviewed during the evaluation, the consultant must illustrate key findings with selected quotes.
    - In addition, the evaluator should provide ICTJ with another written brief which will provide the ICTJ with a means of capturing the important experiences and lessons learned on the assignment.
  - Recommendations.
  - Annexes. These should include the template of data collection tools; terms of reference; evaluation schedule; list of people met (by group); and list of documents reviewed.

The final report should not exceed 50 pages (without annexes). All written deliverables should be completed in English.

VIII.   Time Frame

This study will begin with preparation work commencing January 15, 2015. The final report is to be submitted by April 10, 2015.

The fieldwork within Nairobi is anticipated to take place during the period of February 1 to 15, 2015.

The draft report will be submitted by March 1, 2015. Provided that feedback from ICTJ is given to the evaluator by March 15, 2015, the final report shall be delivered by April 10, 2015.

IX.   Requirements

Evaluator Requirements:
- Relevant academic background (Masters or PhD)
- Experience in undertaking evaluations of human rights programs in post-conflict contexts
- Knowledge of transitional justice
- A working knowledge of international NGOs
- Excellent written and communications skills (in English)
- Knowledge and previous experience of the Kenyan context

X.   Logistics For the Evaluation

ICTJ will provide support to address some logistical needs required for the collection of data, as needed. Program staff will also provide additional information that the consultant may require from time to time.

Interested candidates shall send, to the contact person below, by **December 31, 2014**:

- A short cover letter
- CV
- An excerpt or complete evaluation report previously undertaken by the candidate
- Referees with contact details
- Any other relevant information showing suitability of the consultant for the assignment.

Contact:
Agatha Ndonga
Program Assistant, ICTJ Kenya
Email: andonga@ictj.org